

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.1973 of 2022

1. Bihar State Non- Gazetted Employees Federation through its Assistant General Secretary Ram Kumar Jha, male, aged about 64 years, son of Late Bhengri Yadav, resident of Vill and P.O.- Thahra Gopalpur, P.S. Pusa, District- Samastipur.
2. Pranav Kumar Jha son of Raghavendra Jha resident of Village Neuri, P.O. Neuri, P.S. Biraul, District Darbhanga- 847103.
3. Mobbasir Altaf son of Late Md. Shakir resident of Mohalla Faujullah Kha, P.O. Lalbagh, P.S. Laheriya Sarai, District Darbhanga.
4. Indra Mohan Kumar son of late Ramprakash Yadav resident of Village Lakshminiya, P.O. Tarwara, P.S. Jamalpur, District Darbhanga.
5. Md. Barkat Ali son of late Md. Shabbir Ahmad resident of Village Chandi, P.O. Ojhaul, P.S. Bahadurpur, District Darbhanga.
6. Pradeep Kumar son of Late Lakshman Prasad resident of Village Dhanga, P.O. Biraul, P.S. Jamalpur, District Darbhanga.
7. Yogesh Kumar son of Late Samir Kumar Jha resident of Village- P.O.- Rampatti, P.S. Rajnagar, District Madhubani.
8. Yograj son of late Chandra Mohan Mishr resident of Village- P.O.- Darhar, P.S. Laheriyasarai, District Darbhanga.
9. Jai Shankar Jha son of Late Dinesh Jha resident of Village Horalpatti, P.O. Anandpur, P.S. Ashok Paper Mill, District Darbhanga.
10. Nawab Sarvar Ali son of Md. Nemat Ali resident of Manharan Lal, Khankah Chauk, P.O. Lalbagh, P.S. Sadar, District Darbhanga.
11. Chandan Kumar son of Late Anup Kumar Bhagat resident of Mohalla School Para, P.O. Raniganj, P.S. Raniganj, District West Vardhaman, West Bengal- 713347
12. Sameer Srivastava son of Late Maya Shankar Prasad resident of Ward No. 11, Kailashpuri Dumra, Sharan Niwas, Dumra, District Sitamarhi.
13. Ashutosh Kumar son of Raman Prasad Yadav resident of Village Kadamtoli, P.O. Shekhpur Dagarwara, P.S. Kewari, District Darbhanga.

... .. Petitioner/s

Versus

1. The State of Bihar through the Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
2. Principal Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
3. Joint Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna.
4. Secretary, General Administration Department, Government of Bihar, Patna.
5. Secretary, Finance and Administrative Reforms Department, Government of Bihar, Patna.



6. Joint Department, Agriculture Census, Department of Revenue and Land Reforms, Government of Bihar, Patna.
7. Divisional Commissioner, Darbhanga Division, Darbhanga.
8. District Collector, Darbhanga, District Darbhanga.

... .. Respondent/s

Appearance :

For the Petitioner/s	:	Mr. Y.V. Giri, Sr. Advocate Mr. Sumit Kumar Jha, Advocate Mr. Sumit Kumar, Advocate
For the Respondent/s	:	Mr.Md. Khurshid Alam (AAG-12) Mr. Asif Kalim, AC to AAG-12

CORAM: HONOURABLE MR. JUSTICE P. B. BAJANTHRI
ORAL JUDGMENT

Date : 19-05-2022

Heard learned counsels for the parties.

2. In the present petition, petitioners have prayed
for following reliefs:-

“i. To issue writ/order or direction in the nature of Certiorari for setting aside the order contained in memo no. 327(14) Revenue dated 07.09.2021 issued under the signature of Respondent Joint Secretary, Revenue and Land Reforms Department, Government of Bihar, Patna by which a general direction has been given to all the District Collectors of the State of Bihar for taking appropriate action in relation to the appointment of Revenue Clerk (Rajaswa Karmchhari) on compassionate ground in accordance with the suggestion of the General Administrative Department Government of Bihar, (Annexure-4)

ii. To issue writ/order or direction in the nature of certiorari for setting aside the memo no. 05 dated 03.01.2022 issued by the office of Collectriate Darbhanga issued under the signature of District Magistrate, Darbhanga



by which the respondent District Magistrate in the light of Memo No. 327(14) dated 07.09.2021 (Annexure-4), amended/modified his earlier appointment letters of the petitioners, reverting/reappointing them under another Cadre on equal pay scale and pay level in the post of Lower Divisional Clerk in Group 'C' in the office of Collectriate Darbhanga, (Annexure-6).

iii. To issue writ/order or direction in the nature of certiorari for setting aside the Memo No. 447(4) dated 06.06.2017 and Memo No. 63(4) dated 29.01.2018 issued by the Joint Director, Agriculture Census, Revenue and Land Reforms Department by which the respondent Joint Director issued guideline to the Collector, Samastipur regarding appointment of Revenue Clerk (Rajaswa Karmchari) on the basis of compassionate ground by which the respondent Joint Director modified the recommendation of District Compassionate Committee to the extent that no recommendation can be made for the appointment on the post of Revenue Clerk (Rajaswa Karmchari) on the basis of compassionate appointment. The copy of the said letters were also marked to all the District Collector in Bihar for needful action (Annexure-8 & 8A).

iv. To issue writ/direction/orders in the nature of mandamus commanding/restraining the respondents from interfering/disturbing with the initial appointment of the petitioners on the post of Revenue Clerk (Rajaswa Karmchari) and further to allow the petitioners to continue on the said post on the scale as provided in the appointment letter and other admissible allowances which the petitioners are legally entitled in view of the decision taken by the respondent authorities time to time.

v. To hold and declare that the



petitioners are legally appointed on the post of Revenue Clerk on the basis of compassionate ground after due recommendation of the District Compassionate Committee.

vi. To hold and declare that the action of the respondents Joint Secretary and Joint Director of the Revenue and Land Reforms Department, Government of Bihar, Patna modifying the recommendation of District Compassionate Committee is without jurisdiction.

vii. To any other relief or reliefs for which the petitioners are found to be entitled in the facts and circumstances of the case.”

3. Short question for consideration in the present petition is whether petitioners are entitled to be appointed on compassionate ground to the post of Revenue Karmchari or not?

4. Petitioners were stated to have been appointed in the year 2018 on compassionate ground to the post of Revenue Karmchari. Thereafter, the official respondents noticed that petitioners are not entitled to be appointed to the post of Revenue Karmchari in terms of the relevant rules. Thus, petitioners’ services have been displaced by the impugned action.

5. This Court on earlier occasion specifically asked the official respondents as to whether before taking of impugned action petitioners have been heard in the matter or not? On this point, learned State counsel submitted on instruction that



petitioners have not been provided opportunity of hearing before cancelling their appointment to the post of Revenue Karmchari. On this short ground, petitioners have made out a case. Accordingly, the present petition stands allowed while quashing the impugned order dated 03.01.2022 (Annexure- 6) reserving liberty to the official respondents to proceed in accordance with law within a period of three months from the date of receipt of this order after giving due ample opportunity of hearing to the petitioners.

Petitioners are at liberty to file detailed explanation as and when notices were issued to them.

(P. B. Bajanthri, J)

rakhi/-

AFR/NAFR	
CAV DATE	
Uploading Date	23.05.2022
Transmission Date	

